

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RICARDO JOSE LOPEZ,

Petitioner,

v.

E.C. McDANIEL, et al.,

Respondents.

Case No. 3:11-cv-00635-MMD-VPC

ORDER

This action is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner represented by counsel.

On February 20, 2013, this Court ruled that the first amended petition was a mixed petition, as Grounds 4(A), at paragraphs 2, 3, 5, 6 and 7, as well as Ground 5, were unexhausted, but the remaining grounds were exhausted. (Dkt. no. 30.) The Court gave petitioner the option of abandoning his unexhausted claims and proceeding on his exhausted claims or, in the alternative, to seek a stay under *Rhines v. Weber*, 544 U.S. 269 (2005). Petitioner moved for the issuance of a stay and abeyance under *Rhines v. Weber*. (Dkt. no. 31). By order filed July 17, 2013, this Court granted petitioner's motion for a stay and this case was administratively closed. (Dkt. no. 36.)

Petitioner's further state-court proceedings having concluded, petitioner has now returned to this Court seeking to reopen this case. (Dkt. no. 38.) Petitioner has filed supplemental exhibits in support of the motion to reopen the case. (Dkt. no. 39.) Petitioner asks that the supplemental exhibits be accepted and linked to his first

1 amended petition at dkt. no. 8. Petitioner has also filed a motion for an extension of time
2 in which to file a second amended petition. (Dkt. no. 40.)

3 Respondents have filed notices of non-opposition to petitioner's motion to reopen
4 and motion for an extension of time. (Dkt. nos. 41 & 42.) Good cause appearing, this
5 action is reopened, petitioner's motion for an extension is granted, and the Court sets a
6 further briefing schedule for this action.

7 It is therefore ordered that petitioner's motion to reopen this action (dkt. no. 38) is
8 granted. The Clerk shall reopen the file in this action.

9 It is further ordered that the supplemental exhibits filed at dkt. no. 39, are
10 accepted as supplemental exhibits to the first amended petition (dkt. no. 8). The Clerk of
11 Court shall link the supplemental exhibits (dkt. no. 39) to the first amended petition (dkt.
12 no. 8) on the CM/ECF docket in this action.

13 It is further ordered that petitioner's motion for an extension of time (dkt. no. 40)
14 is granted. Petitioner shall file the second amended petition on or before March 13,
15 2015.

16 It is further ordered that respondents shall have forty-five (45) days following
17 service of the second amended petition within which to answer, or otherwise respond to,
18 the second amended petition.

19 It is further ordered that petitioner shall have forty-five (45) days following service
20 of the answer to file and serve a reply brief. If a dispositive motion is filed in response to
21 the second amended petition, the parties shall brief the motion in accordance with Local
22 Rule 7-2.

23 It is further ordered that the parties shall send courtesy (paper) copies of all
24 further exhibits filed in this action to the Reno Division of this Court. Courtesy copies

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1 shall be mailed to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, and directed
2 to the attention of "Staff Attorney" on the outside of the mailing address label.

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4 DATED THIS 14th day of January 2015.

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7 MIRANDA M. DU
8 UNITED STATES DISTRICT JUDGE
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